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17 *Attorneys for Plaintiff-Relator*

18 (Additional counsel listed on signature page)

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA

21

22 UNITED STATES OF AMERICA, *ex rel.*,  
23 JOHN C. PRATHER, *et al.*

24 CASE NO. C 09-02457 CRB

25

26 Plaintiff-Relator

27

28 vs.

29 **STIPULATION AND [PROPOSED]  
30 ORDER REGARDING AMENDMENT  
31 OF RELATOR'S COMPLAINT AND  
32 DEFENDANTS' RESPONSES TO THE  
33 AMENDED COMPLAINT**

34

35 AT&T INC., CELLCO PARTNERSHIP  
36 d/b/a VERIZON COMMUNICATIONS,  
37 QWEST COMMUNICATIONS  
38 INTERNATIONAL, INC., SPRINT  
39 NEXTEL CORP., and TELEPHONE AND  
40 DATA SYSTEMS, INC.,

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42 Defendants.

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1 Relator John C. Prather ("Relator") and Defendants AT&T Inc. ("AT&T"), Cellco  
 2 Partnership d/b/a Verizon Wireless ("Verizon"), Qwest Communications International  
 3 Inc. ("Qwest"), and Sprint Nextel Corporation ("Sprint"), (collectively, "Defendants"),  
 4 by and through their respective counsel and subject to the approval of the Court, hereby  
 5 stipulate as follows:

6 WHEREAS, the Defendants filed a joint motion to dismiss ("the Motion")  
 7 Relator's complaint ("the Complaint") based on Federal Rules of Civil Procedure 9(b),  
 8 12(b)(1), and 12(b)(6) on January 18, 2012 (Dkt. No. 63);

9 WHEREAS, at the hearing for the Motion on April 20, 2012, the Court granted the  
 10 Motion with leave to amend (Dkt. No. 80) and permitted discovery on issues raised in  
 11 the Motion concerning subject matter jurisdiction;

12 WHEREAS, Relator intends to file his amended complaint ("the Amended  
 13 Complaint") on or before July 18, 2012, a date to which Defendants have consented;

14 WHEREAS, the parties have agreed that Defendants have no duty to respond to  
 15 the Amended Complaint until the parties, subsequent to the filing of the Amended  
 16 Complaint, meet and confer over a response date and discovery schedule on the issue of  
 17 whether the Amended Complaint is barred for lack of subject matter jurisdiction, submit  
 18 a scheduling proposal to the Court, and a response date is entered;

19 WHEREAS, the parties have agreed that they will meet and confer over a  
 20 response date and discovery schedule by no later than August 1, 2012;

21 WHEREAS, the parties have agreed that they will submit a proposed scheduling  
 22 order setting forth Defendants' response date and a discovery schedule to the Court by  
 23 August 8, 2012;

24 NOW THEREFORE, IT IS HEREBY STIPULATED by the undersigned counsel on  
 25 behalf of the parties identified below that:

26 (1) Relator shall be entitled to file his Amended Complaint on or before July  
 27 18, 2012; and  
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(2) Defendants shall not be obligated to respond to the Amended Complaint until the parties, subsequent to July 18, 2012, meet and confer over a response date and discovery schedule, submit a scheduling proposal to the Court, and a response date is entered; and

(3) The parties shall meet and confer regarding Defendants' response date and the discovery schedule by no later than August 1, 2012; and

(4) The parties shall submit a proposed scheduling order or, if they cannot agree, their respective positions regarding a response date and discovery schedule to the Court by August 8, 2012.

1 DATED: May 23, 2012

BALESTRIERE FARIELLO

3 By: /s/ John G. Balestriere

4 John G. Balestriere  
Attorneys for Relator John C. Prather

5 DATED: May 23, 2012

MUNGER, TOLLES & OLSON LLP

7 By: /s/ Jerome C. Roth

8 Jerome C. Roth  
9 Attorneys for Defendant  
10 Celco Communications d/b/a Verizon  
Wireless

11 DATED: May 23, 2012

PERKINS COIE LLP

12 By: /s/ David F. Taylor

13 David F. Taylor  
14 Attorneys for Defendants Sprint Nextel  
15 Corporation and Qwest Communications  
International Inc.

16 DATED: May 23, 2012

SIDLEY AUSTIN LLP

17 By: /s/ Douglas A. Axel

18 Douglas A. Axel  
19 Attorneys for Defendant AT&T Inc.

20 DATED: May 23, 2012

WILLIAMS & CONNOLLY LLP

22 By: /s/ Edward C. Barnidge

23 Edward C. Barnidge (*pro hac vice*)  
24 Attorneys for Defendant Sprint Nextel  
Corporation

25 ATTESTATION UNDER GENERAL ORDER 45, SECTION X.B.

26 I have the authorization of all counsel identified herein to submit this Stipulation  
27 and [Proposed] Order.

28 /s/ John G. Balestriere

[PROPOSED] ORDER

Pursuant to the parties' stipulation set forth above, IT IS SO ORDERED.

DATED: May 25, 2012

